

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SUN PHARMACEUTICAL
INDUSTRIES, LTD., et al.

Plaintiffs,

v.

SAPTALIS PHARMACEUTICALS,
LLC,

Defendant.

C.A. No. 1:18-cv-648-WCB

**CONFIDENTIAL –
FILED UNDER SEAL**

**DECLARATION OF DAVID A. GERASIMOW IN SUPPORT OF
DEFENDANT SAPTALIS PHARMACEUTICALS, LLC'S MOTION FOR
SUMMARY JUDGMENT OF NON-INFRINGEMENT**

I, David A. Gerasimow, declare under penalty of perjury as follows:

1. I am an adult over the age of 18, and make this Declaration based upon personal knowledge and in support of Defendant Saptalis Pharmaceuticals, LLC's ("Saptalis") co-filed Motion for Summary Judgment of Non-Infringement.
2. I am an attorney at the law firm of Husch Blackwell LLP, and I represent Saptalis in the above-captioned matter.
3. Attached as **Exhibit A** is a true and correct copy of U.S. Patent 6,890,957, entitled "Liquid formulation of metformin," issued May 10, 2005, as filed by Plaintiffs in the above-captioned action as an exhibit (D.I. 1-1) to their Complaint (D.I. 1).

4. Attached as **CONFIDENTIAL Exhibit B** is a true and correct copy of a portion of Saptalis' Abbreviated New Drug Application No. 211309, which Saptalis produced in this action as SAP0002166-2177.

5. Attached as **CONFIDENTIAL Exhibit C** is a true and correct copy of Plaintiffs' First Amended Initial Infringement Claim Chart, served by Plaintiffs on January 14, 2019. I have added highlighting to this document to direct the reader's attention.

6. Attached as **CONFIDENTIAL Exhibit D** is a true and correct copy of Plaintiffs' Initial Infringement Claim Chart, dated October 18, 2018. I have added highlighting to this document to direct the reader's attention.

7. Attached as **Exhibit E** is a true and correct copy of U.S. Patent No. 6,559,187, entitled "Liquid formulation of metformin," issued May 6, 2003, retrieved from the U.S. Patent & Trademark Office patent database (uspto.gov) on January 25, 2019.

8. Attached as **Exhibit F** is a true and correct copy of the international publication (WO02/11716) of European Patent Application No. 01954256.2 retrieved from the European Patent Office database (epo.org) on January 25, 2019.

9. Attached as **Exhibit G** is a true and correct copy of International Publication No. WO99/55320, entitled "Oral formulation comprising biguanide and an organic acid," published November 4, 1999, from the file history for U.S. Patent

No. 6,890,957 and retrieved from the U.S. Patent & Trademark Public PAIR database (portal.uspto.gov/pair/PublicPair) on January 25, 2019.

10. Attached as **Exhibit H** is a true and correct copy of Communication/Minutes (Annex), dated March 2, 2004, from the file history for European Patent Application No. 01954256.2 and retrieved from the European Patent Office database (epo.org) on January 25, 2019.

11. Attached as **Exhibit I** is a true and correct copy of a Reply, dated February 28, 2006, from the file history for European Patent Application No. 01954256.2 and retrieved from the European Patent Office database (epo.org) on January 25, 2019.

12. Attached as **CONFIDENTIAL Exhibit J** is a true and correct copy of Plaintiffs' Objections and Responses to Defendant's First Set of Interrogatories to Plaintiffs (Nos. 1-9), dated August 27, 2018.

13. Attached as **Exhibit K** is a true and correct copy of the March 6, 2003, Claims Listing from the file history for U.S. Patent No. 6,890,957 as provided by Plaintiffs (SUN_RIOMET_000216-000223).

14. Attached as **Exhibit L** is a true and correct copy of June 18, 2003, Second Preliminary Amendment from the file history for U.S. Patent No. 6,890,957 as provided by Plaintiffs (SUN_RIOMET_000163-000168).

15. Attached as **Exhibit M** is a true and correct copy of the Written Opinion, dated June 6, 2002, from the file history for European Patent Application No. 01954256.2 and retrieved from the European Patent Office database (epo.org) on January 25, 2019.

16. Attached as **Exhibit N** is a true and correct copy of the International Search Report, dated May 15, 2002, from the file history for European Patent Application No. 01954256.2 and retrieved from the European Patent Office database (epo.org) on January 25, 2019.

17. Attached as **Exhibit O** is a true and correct copy of an Information Disclosure Statement, dated June 10, 2002, from the U.S. Patent & Trademark Office file history for U.S. Patent No. 6,559,187.

18. Attached as **Exhibit P** is a true and correct copy of an Office Action, dated July 3, 2002, from the U.S. Patent & Trademark Office file history for U.S. Patent No. 6,559,187.

19. Attached as **Exhibit Q** is a true and correct copy of an Amendment and Response to Office Action, dated November 4, 2002, from the U.S. Patent & Trademark Office file history for U.S. Patent No. 6,559,187.

20. Attached as **Exhibit R** is a true and correct copy of an Interview Summary, dated December 5, 2002, from the U.S. Patent & Trademark Office file history for U.S. Patent No. 6,559,187.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 25, 2019

/s/ David A. Gerasimow

David A. Gerasimow